

**IN THE HIGH COURT OF UTTARKHAND
AT NAINITAL**

Writ Petition No. 732 (S/S) of 2007

Poonam Dhaundiyal W/o Sri Yaswant Singh Dhaundiyal
R/o Kholta, Almora
Presently posted as Assistant Teacher (Science) Junior High
School, Khan, Block Tarikhet
District- Almora

----- Petitioner

Versus

1. State of Uttarakhand through Secretary Education, Dehradun
 2. Director of Education, Mayur Vihar, Dehradun
 3. District Education Officer, Almora
 4. Additional District Education Officer (Basic), Almora
- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri C.S. Rawat, learned counsel for the petitioner and Sri Ashish Joshi, learned Standing Counsel State of Uttarakhand for the respondents.

By means of this writ petition, the petitioner has challenged the transfer order dated 11.06.2007 by which the petitioner, who was working as Assistant Teacher (Science) in Junior High School, Khan, Tarikhet, has been transferred to Junior High School, Baidgaon, Tarikhet, Almora on the ground that she was working at Junior High School Khan, Tarikhet against inconsistent subject.

The submission of the petitioner is that vide order dated 18/25 July, 2005 passed by Additional District Education Officer (Basic) Almora, the petitioner was promoted to the post of Assistant Teacher Junior High School and was posted at Junior High School Naugaon, Tarikhet, Almora, However, the petitioner was not permitted to join at Junior High School Naugaon, Tarikhet,

Almora by the Head Mistress on the ground that post of Assistant Teacher (Science) is not vacant in the school. Consequently, the petitioner made an application to the Additional District Education Officer (Basic) and in reply to the application, respondent no. 4 modified its earlier order by posting the petitioner as Assistant Teacher in Junior High School, Khan, Tarikhet instead of Naugaon, Tarikhet, Almora. In pursuance to this order, the petitioner joined in Junior High School, Khan, Tarikhet in the month of September, 2005 and now by the present order, the petitioner has been transferred from Junior High School, Khan, Tarikhet to Junior High School Baidgaon, Tarikhet.

One of the ground on which the petitioner wants to attack the impugned order is that at the time when the petitioner was promoted as Assistant Teacher, Junior High School, a condition was attached with the promotion order that within 5 years, there will be no consideration for transfer of petitioner to any other place and since the petitioner has joined at the new place of posting after promotion only in the year 2005, she should not have been transferred to any other prior to expiry of 5 years period.

I am not satisfied with the submission made by the learned counsel for the petitioner. The condition does not mean that the petitioner cannot be transferred anywhere for 5 years. The intention of condition was that there will be no consideration for transfer on the request of promotees for at least 5 years.

The second ground on which the petitioner has attacked this transfer order is that the impugned order has been passed on the ground that the petitioner is working in Junior High School, Khan against an inconsistent subject, which is not correct as earlier she

was transferred to Naugaon where she was not permitted to join as there was no post vacant and after modification of the transfer order, she was sent to Junior High School, Khan where the Head Mistress had permitted the petitioner to join in view of the fact that the post was vacant and petitioner was not transferred against the inconsistent subject.

This Court cannot decide at this moment whether the petitioner was working at Junior High School, Khan against an inconsistent subject or not. Consequently, I deem it fit and proper to direct the petitioner to make representation before the appropriate authority, i.e., Additional District Education Officer (Basic), District Almora is directed to take decision on the representation of the petitioner within a period of 10 days from the date of receipt of a certified copy of this order along with the representation from the petitioner.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

27.06.2007
VKS